



50325-0528

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	)	Confirmation No.: 6610
	)	
Michael Kirkwood, et al.,	)	Group Art Unit: 2161
	)	
Serial No.: 09/823,819	)	Examiner: Brian D. Goddard
	)	
Filed: March 30, 2001	)	

For: BUSINESS VOCABULARY DATA STORAGE USING MULTIPLE  
INTERRELATED HIERARCHIES

**LETTER TO EXAMINER WITH REFUND DEMAND**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

With this letter the Applicant has filed a petition for revival of the above-identified application and a Notice of Appeal. The Applicant has had to take these actions solely because the Office failed to timely mail a Notice of Allowance, or another Office Action, in reply to the Applicant's timely reply to the last, final Office Action, even though PAIR shows that a Notice of Allowability has been "counted" in the case.

Applicant's representative is aware that the Office recently instituted a procedure in which an Examiner prepares a Notice of Allowability that is "counted," but no Notice of *Allowance* is mailed at that time, and the case is referred to a contractor to perform "Dialog template searching" before the case can be cleared for allowance. In this case, some seven (7) months have elapsed without resolution of such searching.

This is not an isolated case. Applicant's representative is aware of other cases in which even longer delays have occurred. Respectfully, the new procedure **is not working**, and is costing this and other applicants thousands of dollars in unnecessary fees, and causing

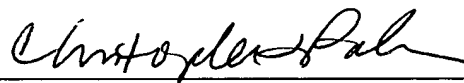
unwarranted delays in processing meritorious cases. The Applicant would appreciate anything that can be done to inform USPTO management about the problems inherent in this procedure, and the manifest unfairness of a process that virtually guarantees that an applicant must spend thousands of dollars to maintain a case and, ultimately, merely increases the number of cases in the docket of the Board of Appeals and Interferences.

Further, if a Notice of Allowance ultimately issues in this particular case, all fees involved in this submission ought to be refunded *sua sponte* by the Office, and Applicant hereby demands such a refund.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

July 21, 2005



Christopher J. Palermo  
Reg. No. 42,056

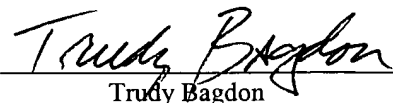
2055 Gateway Place, Suite 550  
San Jose, CA 95110-1089  
Tel. No. (408) 414-1080  
Fax No. (408) 414-1076

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on July 21, 2005

By

  
Trudy Bagdon

**FREE TRANSMITTAL**  
**for FY 2005**

Patent fees are subject to annual revision,  
Small Entity payments must be supported by a small entity statement,  
otherwise large entity fees must be paid. See Forms PTO/SB/09-12.  
See 37 C.F.R. §§ 1.27 AND 1.28

**Complete if Known**

Application Number 09/823,819  
Filing Date March 30, 2001  
First Named Inventor MICHAEL KIRKWOOD  
Examiner Name BRIAN D. GODDARD  
Group/Art Unit 2161  
Attorney Docket No. 50325-0528

TOTAL AMOUNT OF PAYMENT (\$)**2,180.00**

**METHOD OF PAYMENT (check one)**

1. ☒ Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302. A duplicate of this sheet is enclosed.

Deposit Account Number 50-1302

Deposit Account Name Hickman Palermo Truong & Becker, LLP

2. ☒ Payment Enclosed:  
☒ Check ☐ Money Order ☐ Other

3. ☐ Applicant(s) is entitled to small entity status.  
See 37 CFR 1.27.

**FEE CALCULATION (continued)**

**3. ADDITIONAL FEES**

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
1051	130	2051 65 Surcharge - late filing fee or oath	
1052	50	2052 25 Surcharge - late provisional filing fee or cover sheet.	
1251	120	2251 60 Extension for reply within first month	
1252	450	2252 225 Extension for reply within second month	
1253	1,020	2253 510 Extension for reply within third month	
1254	1,590	2254 795 Extension for reply within fourth month	
1255	2,160	2255 1,080 Extension for reply within fifth month	
1401	500	2401 250 Notice of Appeal	500.00
1402	500	2402 250 Filing a brief in support of an appeal	
1452	500	2452 250 Petition to revive - unavoidable	1,500.00
1453	1,500	2453 750 Petition to revive - unintentional	
1501	1,400	2501 700 Utility issue fee (or reissue)	
1502	800	2502 400 Design issue fee	
1504	300	2504 300 Publication Fee	
1462	400	1462 400 Petitions Director not specifically provided for Group I	
1463	200	1463 200 Petitions Director not specifically provided for Group II	
1464	130	1464 130 Petitions Director not specifically provided for Group III	
1806	180	1806 180 Submission of information Disclosure Stmt	180.00
8021	40	8021 40 Recording each patent assignment per property (times number of properties)	
1809	790	2809 395 Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810 395 For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify)			
Other fee (specify)			

**FEE CALCULATION**

**1. BASIC FILING FEE**

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
1011	300	2011 150 Utility filing fee	
1111	500	2111 250 Utility Search fee	
1311	200	2311 100 Utility Examination fee	
1081	250	2081 125 Utility Application Size Fee	
1005	200	2005 100 Provisional Application Fee	
1085	250	20835 125 Provisional Application Size Fee	
SUBTOTAL (1)			(\$) <b>0.00</b>

**2. EXTRA CLAIM FEES**

	Highest Paid Claims	Extra Claims	Fee from Below	Fee Paid
Total Claims	-20**=	0	50.00	0.00
Independent Claims	- 3**=	0	200.00	0.00
Multiple Dependent				

\*\*or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code	Small Entity Fee Code	Fee Description
1202	50	2202 25 Claims in excess of 20
1201	200	2201 100 Independent claims in excess of 3
1203	360	2203 180 Multiple dependent claim, if not paid
1204	200	2204 100 **Reissue independent claims over original patent
1205	50	2205 25 **Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)**0.00**

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$)**2,180.00**

**SUBMITTED BY**

Name (Print/Type) CHRISTOPHER J. PALERMO  
Signature Christopher J. Palermo  
Registration No. (Attorney/Agent) 42,056  
Telephone (408) 414-1080  
Date July 21, 2005

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.